

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0212P

Withholding Tax

For The Period Ending September 30, 1998

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed for the late filing of its September 1998 sales tax. The department issued liability 98-0056992 on December 15, 1998. Taxpayer protested the penalty assessed on December 18, 1998 and on May 3, 1999 the taxpayer was denied a waiver. Taxpayer filed a written protest with the Appeals Division which was received on May 5, 1999 and May 18, 1999. Because the taxpayer filed a duplicate protest, two docket numbers were issued. Docket number 04-990244P is null and void.

Taxpayer states it does not owe a penalty for paying its tax liability late, as the payment was not late. This only became a problem when the Indiana Department of Revenue changed the due date a couple of years ago. Taxpayer requests the waiver of penalties, as the payment was not late. Taxpayer states it is not protesting when the Department received its payment, only the fact that it is not paying its sales tax liability late.

In its letter dated December 18, 1998, taxpayer states it is paying the sales tax a month ahead.

I. **Tax Administration** –Penalty

DISCUSSION

Taxpayer, in its letter of protest, states the department's tax voucher does not coincide with the way it pays its sales tax liability, as it has always paid the sales tax within three days after billing is generated. In its letter dated April 30, 1999, taxpayer states it did receive a copy of the postmark for the payment, however it was not protesting when the department received payment but the fact that they are not paying its sales tax liability late.

Taxpayer states it is on an accrual system and the bills are generated on the 15th of each month and the sales tax is paid between the 15th and 18th of the same month. The payment in question was reported on a tax voucher for the tax period September 98 due on or before October 20, 1998. Taxpayer further states that the total sales reported on this tax voucher was for its billings generated on October 15, 1998 and the check was issued October 18, 1998. The Department received the check on October 23, 1998. The tax voucher does not coincide with the way the taxpayer pays its sales tax liability as the company has always paid the sales tax within three days after its billings are generated to the public.

The issue here, however, is not the time period for which the taxpayer makes payment. The issue is whether the payment was timely made, which it was not. The envelope in which payment was made shows a postmark after the due date of October 20, 1998, therefore, a late filing penalty was assessed. The fact that the taxpayer makes its payments a month early is not the issue. The timely filing of the return is the issue.

The department finds that the penalty is proper.

FINDING

Taxpayer's protest is denied.